



March 20, 2019

Mr. Yelverton,

This is to inform you we wish to file a complaint against Arlington Police Chief Will Johnson for violation of **City of Arlington Personnel Policy 201.11. A (1)(2) Unbecoming Conduct and Conduct Prejudicial to Good Order**, which states, an employee's conduct at all times, on and off the job, shall reflect favorably on the employee and the City. **The subjective intent of the speaker or actor is not relevant in the determination of whether this standard of conduct is violated.** Unbecoming conduct includes but is not limited to:

- Acts that tend to bring the City into disrepute or discredit the employee or tend to impair or disrupt the operation of the City or the employee.
- Word(s) or action(s) which can reasonably be construed to convey discriminatory or biased opinion, attitude, or belief about race, color, national origin, gender, (including sexual orientation and gender identity), disability, age or religion.
- Verbal conduct, jokes, gestures, physical conduct of a sexual nature.

Our basis for the complaint is based on the following events:

On or about Nov. 8, 2018, during the Arlington Police Department Managers Meeting, it is alleged that Chief Johnson was speaking to the attendees, all of which are his subordinates. Chief Johnson was recounting a past incident involving an African American female. Sometime during his address, Chief Johnson allegedly used a discriminatory term, namely the N word. It is unknown the exact manner or intent in which the term was used; however, as policy states, the subjective intent of the speaker or actor is not relevant in the determination of whether the standard of conduct is violated.

Sometime after the Nov. 8th meeting, it was rumored that some of the employees who attended the meeting were offended by the comment made by Chief Johnson. As a result, on or about Nov. 15, 2018, Chief Johnson held a second meeting. Those who had attended the Nov. 8 meeting were ordered/requested to attend the Nov. 15th meeting. It is alleged that during this meeting Chief Johnson apologized for his misconduct, namely the use of the N word in the Nov. 8 meeting.

We would like to include some additional information that we feel will be helpful in determining if Chief Johnson violated City policy.

Arlington Municipal Patrolman's Association
P.O. BOX 2226 • Arlington, TX 76004

On June 5, 2018, the City of Arlington held a disciplinary arbitration of an Arlington Police Officer. In this case, the Officer was charged with violating City of Arlington Personnel Policy 201.11.(1)(2) and received a 16-hour suspension that was reduced to an 8-hour suspension in arbitration. The Officer involved in this case was working a major accident. After completing the investigation into the accident, the Officer and his back up Officer were waiting for the vehicles to be towed away. The Officer was discussing with the other Officer about applying for a position with the Narcotics Unit and whether or not the department was looking to diversify that unit or not. During the conversation, the Officer made the following statement:

"You should see my packet. You should see my quals. Everyone's saying you're the most qualified man for the unit. And I said, I know. It doesn't matter. Just going to keep positive man. There's also not a lot of black or Hispanic females that are worth a shit around here, so they really need to find someone who wants to do the job..." The complaint on the Officer focused on *"There's also not a lot of black or Hispanic females that are worth a shit"*, again confirming the subjective intent of the speaker or actor is not relevant in the determination of whether the standard of conduct is violated.

Unbeknownst to the Officers, their conversation was recorded on the dash mounted video camera of the police unit. This was discovered after an attorney for one of the parties involved in the accident filed an open records request for all information related to the accident. In the course of gathering all the related documents, a City of Arlington Records Clerk employee heard the conversation between the two officers. The clerk notified her supervisor, who in turned notified police command.

As a result, an internal investigation was conducted by the Arlington Police Department's Internal Affairs Unit, with Sgt. Lewis Coggeshall handling the investigation.

During the arbitration, Sgt. Coggeshall testified that he did not contact the records clerk for an interview or statement. He also testified he did not contact the attorney who filed the open records request to obtain a statement. Sgt. Coggeshall was unaware if the attorney ever received a copy of the recording or heard the comment made by the officer. This means that finding an offended party or obtaining a statement from an offended party is much like the subjective intent of the speaker or actor; it is not relevant in the determination of whether the standard of conduct is violated.

As in most arbitrations, Chief Johnson was also called to testify. During his testimony, Assistant City Attorney Sarah Martin directed Chief Johnson to look at the City Policy 201.11 and points out "on the second page of the City Policy it speaks to the subjective intent of speaker or actor not being relevant in the determination of whether the standard of conduct is violated". Chief Johnson was asked, "As Police Chief what do you take that phrase to mean?" Chief Johnson replied, "It doesn't matter what the employee meant by it, the statement should be taken on face value, common sense approach, plain language approach". Attorney Martin also asked the Chief if it was necessary to know someone's intent to determine if they violated policy. Chief responded, "it's not necessary and that policy clearly says it's not".

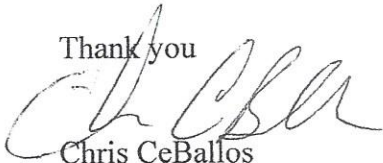
Later in the arbitration, Chief Johnson testified that in this case, he believed that points 1 & 2 (see above) in the charge were appropriate and that 3 certainly appeared to apply. Chief Johnson supported his belief in these charges by testifying that he believed the Officer's comments brought the City in disrepute or could bring the City in disrepute if it is widely discussed or published.

Attorney Martin asked Chief Johnson if he thinks it matters whether someone heard the Officer make the comment, or if a citizen heard. Chief Johnson replied, "no because I think his comment creates, has the potential to create, the same harm, whether a citizen was standing next to him or not".

Chief Johnson testified to the differences in General Orders and City of Arlington Personnel Policy. He testified that personnel policy applies to all city employees, which in our understanding, includes the Chief of Police.

We are providing this additional information and an audio copy of the entire arbitration hearing to assist in your investigation of our complaint. It is our opinion that the discriminatory term used by Chief Johnson was inappropriate regardless of his intent. As he testified to in a previous arbitration appeal case, the Chief's comment has brought the City in disrepute. His comment has apparently been discussed within the Department and may have damaged his credibility within the Department. Lastly, even if Chief Johnson did apologize for his comment, the harm has already been done.

Thank you



Chris CeBallos

President

Arlington Municipal

Patrolman's Association